1950

File No. B.V. Panch/50

Legal Deptt

K

B **BRANCH**

Subject:— A Bill to Amend the Bombay Village Panchayats Act 1933

L.A. Bill No. XXXVIII of 1950

Bom. Act No. XXXI of 1950

P-29
E

File No. B. Village Panch/50

Gen. 194

804-B

Legal Department.

A revised draft Bill is sent herewith.

2. As Taxes on fairs have already been included under clause (iii) of sub-section (2) of section 89 of the Act it is not necessary to embody in the Bill a provision for levy of fees on fairs as proposed in L.S.G. and P.W.D. draft.

3. In view of the distinction now made between a 'tax' and a 'fee', it is necessary to amend the definition of 'tax' as given in clause (14) of section 3 of the Act. The draft Bill provides accordingly.

4. The subject-matter of the Bill falls under entries 5, 28 and 66 in List II in the Seventh Schedule to the Constitution of India. The Bill requires recommendation of the Governor under Article 207(1) read with Article 199(1)(a) of the Constitution of India.

5. As the Bill does not relate to any matters falling in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the President with reference to the Article 254(2) of the Constitution.

Sd/-
17/5
Additional Secretary to Government.

U.O. to L.S.G. and P.W.D., 6765, dated the
18th May 1950.

DYR

Dy
5/7

Legal Department.

A consolidated draft Bill incorporating the amendments proposed in this file and other files refereed to in the L.S.G. & P.H.D. note on page 16 is sent herewith.

Clause 6. The proposal made by the Department is that the expenditure for any public reception etc. should be incurred by a panchayat with the previous sanction of the Collector. It will be seen from sub-section (1) of section 36 A that the expenditure in connection with the discretionary duties mentioned in that sub-section is subject to the general control of the district local board. In this case therefore it would not be appropriate to have another authority i.e. the Collector to give previous sanction to the expenditure. Provision has therefore been made in this clause empowering a panchayat to make provision for any public reception, ceremony, entertainment or exhibition by a resolution passed at a meeting of the Panchayat and supported by a two-thirds of the whole number of its members. The Department should consider whether the provision requiring the panchayat to pass a resolution is suitable for the purpose in view i.e. to have check on the expenditure for public reception, ceremony etc.

Clauses 7 and 8.- Please see R.L.A's opinion No.3464 dated 13-3-1950 at page 13 of file 200/55303/1522. Clause 7 is intended to give effect to the proposal made in that file. Clause 8 is intended to make a consequential amendment in section 45.

The subject-matter of the Bill falls under entries 5, 28 and 66 in List II in the Seventh Schedule of the Constitution. The Bill does not require any sanction or recommendation. After the Bill is passed, it is not necessary to reserve it for the consideration of the

President with reference to article 254(2).

M/-

15/6

Additional Secretary to Government.

U.R. to L.S.G.& P.H.D.No. 8177 dated 15th June 1950.

DYR.
8/6.

Sc.

Legal Department.

A consolidated draft Bill for amending the Village Panchayats Act is ~~xxx~~ sent herewith. In this draft Bill, the draft amendments proposed in this file and the amendment proposed in the linked file No. 174(3)/8562 have been consolidated with the draft amendments furnished to the Department with U.R. No. 8177, dated the 15th June 1950.

2. In consequence of the amendments proposed in this file it would be necessary to amend section 41 to empower the nyaya panchayat to try the new offences proposed to be created under sub-sections (1) and (3) of section 280. Amendments Nos. 9(2), 10 and 11(3) and (4) are intended to amend section 41 and to make consequential amendments in other sections. In existing section 45(1) (c) the maximum limit of fine at Rs. ~~22~~ 20 is not appropriate when the maximum limit under the substantive section 109(3)(a) remains at Rs. 10. The anomaly is being removed by amendment No. 16 by raising the limit in section 109(3)(a) from Rs. 10 to Rs. 20.

3. The subject matter of the Bill falls under entries 5, 28, 64 and 66 in List II in the Seventh Schedule to the Constitution. The Bill does not require any sanction or ~~xxxxxxxxxx~~ recommendation. After the Bill is passed , it is not necessary to reserve the Bill for the consideration of the President with reference to article, 254(2).

I&F-
27/6.

Additional Secretary to Government.

U.R. to L.S.G. and P.H.D., No. 8810, dated the 27th June 1950.

DYR.
8/6.

IMMEDIATE.

No. 179-L.
Legal Department,
Council Hall, Poona, 24th Oct.1960.

From

Shri J.R. Dhurandhar,
Additional Secretary to the Government
Of Bombay, Legal Department.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Village Panchayats (Amendment) Bill 1960.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for the assent of His Excellency the Governor the authentic copy of the Bombay Village Panchayats (Amendment) Bill, 1960, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 27th September 1960 and the 19th October 1960, respectively.

2. The subject-matter of the Bill falls under entries 5,28,64 and 66 in List II in the Seventh Schedule to the Constitution of India. As the Bill does not relate to any matter enumerated in the Concurrent Legislative List, it is not necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution of India.

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

DKR.
8/6

So.

4. I also forward herewith one copy of each of the items Nos. 1, 2 and 4 and two copies of item No.3 of the papers noted in the margin.

1. Bill as introduced in the Bombay Legislative Assembly with the Statements of Objects and Reasons.	
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 27th September 1950 and of the Bombay Legislative Council dated the 10th October 1950	

The Bill was not referred to a Select Committee.

Yours faithfully,

Sd/-

24/10

Additional Secretary to Government.

Through:

The Secretary to the Government of Bombay,
Local Self Government and Public
Health Department.

DYR.
2/6.

5d.

19. No. G.S.- 3238.

From

The Secretary to the Governor of Bombay.

To

The Additional Secretary to Government,

Legal Department.

Government House,

Bombay, October 30, 1950.

Subject: The Bombay Village Panchayats (Amendment)Bill, 1950.

Sir,

With reference to your letter No. 179 -L, dated October 24, 1950, I am directed to return herewith the authentic copy of the Bombay Village Panchayats(Amendment) Bill, 1950, with His Excellency the Governor's assent signified thereon.

Yours faithfully,

Sd/.....

Secretary to the Governor of Bombay.

DYR.

9/6.

5a.

Bills.
A Bill to amend the Bombay Village Panchayats Act, 1933.

GOVERNMENT OF BOMBAY.
Legal Department, Resolution No. 13051
Bombay Castle, 12th September 1950.

Resolution :- The Bill with the Statement and Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 12th September 1950, as Bill No, XXXVIII of 1950.

2. The Bill and the Statements of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette, on the 19th September 1950.

3. The dates of the various publications should be reported to the Bombay Legislature Department.

By order of the Governor of Bombay,

Sd/- S.L. Chudhari,

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and the Statement of Objects and Reasons and with a request that 300 Gazette copies of the Bill and the S.O.R. may be forwarded to the Bombay Legislature Department for distribution and 30 copies for the use of the Legal Department and 20 copies for the use of the Local Self Government, and Public Health Department).
The Local Self Government and Public Health Department,
* The Oriental Translator to Government,
The Bombay Legislature Department
The Director of Publicity, Bombay
The Enquiry Officer for the Secretariat, Bombay.
} with a copy of the Bill and the S.O.R.

* With four extra copies of the Bill and the S.O.R.

DYR.

ACTS. Publication of the Bombay Village Panchayats (Amendment) Act, 1950.

GOVERNMENT OF BOMBAY,

Legal Department.

Resolution No. 236-L.

Council Hall, Poona, 1st November 1950.

Letter to the Secretary to the Governor, No.179-L, dated the 24th October 1950.

Letter from the Secretary to the Governor, No.G.S. 3236, dated the 30th October 1950.

"With reference to your letter No. 179-L, dated October 24, 1950, I am directed to return herewith the authentic copy of the Bombay Village Panchayats (Amendment) Bill, 1950, with His Excellency the Governor's assent signified thereon."

RESOLUTION:- The law should be published as Bombay Act, No. XXXI of 1950, in the Bombay Government Gazette dated the 3rd November 1950.

2. The Act should be translated into Marathi, Gujarathi, Kannada and Hindi (in Devanagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Local Self Government and Public Health Department.

By order of the Governor of Bombay,

K.J.PATHARE,

For Additional Secretary to Government.

To,

Gopikar Enters.

DIR.

9/6.

5e.

Registered No. B-1

The
Bombay Government Gazette
PUBLISHED BY AUTHORITY

TUESDAY, 12TH SEPTEMBER 1950.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules:—

L. A. BILL No. XXXVIII OF 1950.

A Bill to amend the Bombay Village Panchayats Act, 1933.

Bom. VI of 1933.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1950.

Bom. VI of 1933.

Amendment of section 3 of Bom. VI of 1933.

2. In section 3 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), in clause (14), the following shall be added at the end, namely :—

"but does not include a fee"

Amendment of section 6 of Bom. VI of 1933.

3. In section 6 of the said Act, in sub-section (*3*), for the word "four" the word "eight" shall be substituted.

Amendment of section 9 of Bom. VI of 1933.

4. In section 9 of the said Act,—

(*1*) in sub-section (*1*), after the word "may" the words, brackets, figure and letter ", subject to the provisions of sub-section (*1A*)," shall be inserted;

(2) after sub-section (1), the following sub-section shall be inserted, namely :—

" (1A) If in any case to which the proviso to sub-section (1) does not apply, the validity of an election is in dispute between two or more candidates, the Collector shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Collector finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it :

Provided further that after such computation if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate or candidates, as the case may be, selected by lot drawn in the presence of the Collector in such manner as he may determine." ;

(3) for the marginal note to the said section, the following shall be substituted, namely :—

" Determination of validity of elections by Collector. "

Amendment of section 23 of Bom. VI of 1933.

5. In section 23 of the said Act, in the first proviso to sub-section (1), for the word " four ", where it occurs for the second time, the word " eight " shall be substituted.

Amendment of section 26 of Bom. VI of 1933.

6. In section 26 of the said Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely :—

" (ba) the removing of obstructions and projections in public streets or places and in sites not being private property, which are open to the enjoyment of the public, whether such sites are vested in the panchayat or belong to Government ; "

Amendment of section 26A of Bom. VI of 1933.

7. In section 26A of the said Act, after sub-section (2), the following sub-section shall be added, namely :—

" (3) A panchayat may by a resolution passed at its meeting and supported by two-thirds of the whole number of its members make provision for any public reception, ceremony, entertainment or exhibition within the village :

Provided that the panchayat shall not incur expenditure exceeding Rs. 25 on any such public reception, ceremony, entertainment or exhibition, except with the previous sanction of the Collector. "

Insertion of new section 28C in Bom. VI of 1933.

8. After section 28B of the said Act, the following new section shall be inserted, namely :—

Obstructions and encroachments upon public streets and open sites.

" 28C. (1) Whoever within the limits of the village,

(*a*) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(*b*) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public street or place or in or over or upon any open drain, gutter, sewer or aqueduct in such street or place shall, on conviction, be punished with fine which may extend to twenty rupees and with further fine which may extend to one rupee for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(*2*) The panchayat shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not, provided that if the site be vested in Government the permission of the Collector or any officer authorised by him in this behalf shall have first been obtained, the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(*3*) Whoever, not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open site which is not private property shall, on conviction, be punished with fine which may extend to forty rupees, and, in the case of an encroachment, with further fine which may extend to two rupees for every day on which the encroachment continues after the date of first conviction.

(*4*) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of or erection in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and sites for not more than four days, and in such manner as not to inconvenience the public or any individual."

9. In section 41 of the said Act,— Amendment of section 41 of Bom. VI of 1933.

(*1*) in clause (*f*), the entry "Failure to cause child to attend school.....35" shall be deleted;

(*2*) for clause (*h*) the following shall be substituted, namely :—

"(*h*) Under this Act,—

(*i*) Obstructions and encroachments upon public streets and open sites .....28C(1) and (3).

(*ii*) Contravention of a by-law.....109".

10. In section 43 of the said Act, for the words "for a breach of a by-law" the words, brackets, figures and letter "punishable under sub-section (*1*) or (*3*) of section 28C or of contravention of a by-law under sub-section (*3*) of section 109" shall be substituted. Amendment of section 43 of Bom. VI of 1933.

11. In section 45 of the said Act, in sub-section (*1*),— Amendment of section 45 of Bom. VI of 1933.

(*1*) clause (*bb*) shall be deleted;

(*2*) clause (*bc*) shall be relettered as clause (*bb*);

(*3*) in clause (*bb*) so relettered, the word "and" at the end shall be deleted;

(*4*) for clause (*c*), the following clauses shall be substituted, namely:—

"(*c*) Under sub-section (*1*) of section 28C of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section.

(*d*) Under sub-section (*3*) of section 28C of this Act—

Fine not exceeding Rs. 40 or Rs. 2 per day for a continuing contravention as provided in that sub-section.

(*e*) Under sub-section (*3*) of section 109 of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section."

Amendment of section 89 of Bom. VI of 1933.

12. In section 89 of the said Act,—

(*1*) in sub-section (*2*), after clause (*vib*), the following clauses shall be inserted, namely:—

"(*vic*) a fee on markets and weekly bazaars;

(*vid*) a fee on cart-stands;"

(*2*) in sub-section (*2A*), after the word "taxes" the words "or fees" shall be inserted.

Amendment of section 91 of Bom. VI of 1933.

13. In section 91 of the said Act,—

(*1*) in sub-sections (*2*) and (*5*) after the word "tax" the words "or fee" shall be inserted;

(*2*) in sub-section (*6*), after the word "tax," the word "fee," shall be inserted.

Amendment of section 92 of Bom. VI of 1933.

14. In section 92 of the said Act, in clause (*b*), after the word "tax" the words "or fee" shall be inserted.

Amendment of section 108 of Bom. VI of 1933.

15. In section 108 of the said Act, in clause (*mI*) of sub-section (*1*), after the word "taxes" the words "or fees" shall be inserted.

Amendment of section 109 of Bom. VI of 1933.

16. In section 109 of the said Act, in clause (*a*) of sub-section (*3*), for the figures "10" the figures "20" shall be substituted.

Amendment of section 112 of Bom. VI

17. In section 112 of the said Act, in sub-section (*5*), for the words "an Assistant or Deputy Collector" the words "a Mamlatdar or Mahalkari" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The objects and reasons of the proposed amendments of the Bombay Village Panchayats Act, 1933, are explained below :—

Clauses 2, 12, 13, 14 and 15.—Sub-section (*2*) of section 89 of the Bombay Village Panchayats Act, 1933, provides that the village panchayats can levy taxes or fees enumerated in the clauses under that sub-section. A fee on markets and weekly bazaars is being levied by many village panchayats on the strength of the residuary clause (*vii*) which allows the village panchayats to levy only taxes which the State Government has power to levy. A doubt having arisen whether a fee can be regarded as a tax, clause (*vic*) is being inserted to provide specifically for the levy of fees on markets and weekly bazaars by village panchayats. It is also proposed to empower village panchayats to levy a fee on carts-stands for which clause (*vid*) is being inserted.

Clauses 3 and 5.—The period of 4 weeks within which the Standing Committee of a District Local Board, in cases of failure to elect, is required to make appointments of members on village panchayats under sections 6 (*3*) and 23 (*1*) is considered too short. This is, therefore, being increased to 8 weeks.

Clause 4.—Under section 9 of the Act, when an irregularity has been committed at an election such as any mistake in counting of votes, it is competent for the Collector to scrutinize and compute votes recorded in favour of each candidate and declare as invalid the election of any candidate, if on such scrutiny and computation, he is found not to have obtained the highest number of votes ; but it is not competent for him to declare as elected any of the other candidates who, as a result of such scrutiny and computation, is found to have obtained the highest number of votes. It is proposed to give such power to the Collector.

Clauses 6 and 8.—Under section 54(*1*) (*f*) of the Bombay District Municipal Act, 1901, and section 68 (*1*) (*f*) of the Bombay Municipal Boroughs Act, 1925, it is the obligatory duty of every municipality to make reasonable provision for removing obstructions and projections in public streets or places and in spaces not being private property, which are open to the enjoyment of the public. Municipalities have also powers to effect the removal of such obstructions or encroachments. It is proposed to make similar provision in the Bombay Village Panchayats Act, 1933, to enable the village panchayats to remove obstructions and encroachments on public property.

Clause 7.—At present, village panchayats, unlike the municipalities, have no power to incur expenditure on any public reception, ceremony, entertainment or exhibition within the village. It is proposed to give this power to village panchayats.

Clauses 9 and 11.—Under the Bombay Primary Education Act, 1947, nyaya panchayats constituted under the Bombay Village Panchayats Act, 1933, have already been empowered to try offences under section 35 of the Bombay Primary Education Act, 1947. In view of this, the first entry in clause (*f*) of section 41 and clause (*bb*) of sub-section (*1*) of section 45 have become redundant and are proposed to be deleted. Other amendments are minor amendments as a consequence of amendments in other sections.

Clause 16.—The maximum limit of fine mentioned in section 109(*3*) (*a*) of the Bombay Village Panchayats Act, 1933, is proposed to be raised from Rs. 10 to Rs. 20 in order to make it consistent with the maximum limit prescribed by section 45 (*1*)(*c*).

Clause 17.—Under the existing provisions of section 112(*5*) the Collector cannot delegate his powers under the Act to the Mamlatdar or Mahalkari. The proposed amendment will enable him to delegate powers to the Mamlatdar or Mahalkari.

Dated the 6th September 1950. (Signed) G. D. VARTAK.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 12th September 1950.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XXXVIII OF 1950.

A Bill to amend the Bombay Village Panchayats Act, 1933.

(As read for the third time and passed by the Legislative Assembly on the 27th September 1950.)

Bom. VI of 1933.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1950.

Bom. VI of 1933.

Amendment of section 3 of Bom. VI of 1933.

2. In section 3 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), in clause (14), the following shall be added at the end, namely :—

"but does not include a fee"

Amendment of section 6 of Bom. VI of 1933.

3. In section 6 of the said Act, in sub-section (*3*), for the word "four" the word "eight" shall be substituted.

Amendment of section 9 of Bom. VI of 1933.

4. In section 9 of the said Act,—

(*1*) in sub-section (*1*), after the word "may" the words, brackets, figure and letter ", subject to the provisions of sub-section (*1A*)," shall be inserted;

MO-V Bk Hb 254—1

(*2*) after sub-section (*1*), the following sub-section shall be inserted, namely :—

" (*1A*) If in any case to which the proviso to sub-section (*1*) does not apply, the validity of an election is in dispute between two or more candidates, the Collector shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Collector finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it :

Provided further that after such computation if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate or candidates, as the case may be, selected by lot drawn in the presence of the Collector in such manner as he may determine." ;

(*3*) for the marginal note to the said section, the following shall be substituted, namely :—

" Determination of validity of elections by Collector. "

Amendment of section 23 of Bom. VI of 1933.

5. In section 23 of the said Act, in the first proviso to sub-section (*1*), for the word " four ", where it occurs for the second time, the word " eight " shall be substituted.

Amendment of section 26 of Bom. VI of 1933.

6. In section 26 of the said Act, in sub-section (*1*), after clause (*b*), the following clause shall be inserted, namely :—

" (*ba*) the removing of obstructions and projections in public streets or places and in sites not being private property, which are open to the enjoyment of the public, whether such sites are vested in the panchayat or belong to Government ; "

Amendment of section 26A of Bom. VI of 1933.

7. In section 26A of the said Act, after sub-section (*2*), the following sub-section shall be added, namely :—

" (*3*) A panchayat may by a resolution passed at its meeting and supported by two-thirds of the whole number of its members make provision for any public reception, ceremony, entertainment or exhibition within the village :

Provided that the panchayat shall not incur expenditure exceeding Rs. 25 on any such public reception, ceremony, entertainment or exhibition, except with the previous sanction of the Collector. "

Insertion of new section 28C in Bom. VI of 1933.

8. After section 28B of the said Act, the following new section shall be inserted, namely :—

Obstructions and encroachments upon public streets and open sites.

" 28C. (*1*) Whoever within the limits of the village,

(*a*) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(*b*) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public street or place or in or over or upon any open drain, gutter, sewer or aqueduct in such street or place shall, on conviction, be punished with fine which may extend to twenty rupees and with further fine which may extend to one rupee for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(*2*) The panchayat shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not, provided that if the site be vested in Government the permission of the Collector or any officer authorised by him in this behalf shall have first been obtained, the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(*3*) Whoever, not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open site which is not private property shall, on conviction, be punished with fine which may extend to forty rupees, and, in the case of an encroachment, with further fine which may extend to two rupees for every day on which the encroachment continues after the date of first conviction.

(*4*) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of or erection in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and sites for not more than four days, and in such manner as not to inconvenience the public or any individual."

9. In section 41 of the said Act,— Amendment of section 41 of Bom. VI of 1933.

(*1*) in clause (*f*), the entry "Failure to cause child to attend school.....35" shall be deleted;

(*2*) for clause (*h*) the following shall be substituted, namely :—

"(*h*) Under this Act,—

(*i*) Obstructions and encroachments upon public streets and open sites.....28C(1) and (3).

(*ii*) Contravention of a by-law.....109".

10. In section 43 of the said Act, for the words "for a breach of a by-law" the words, brackets, figures and letter "punishable under sub-section (*1*) or (*3*) of section 28C or of contravention of a by-law under sub-section (*3*) of section 109" shall be substituted. Amendment of section 43 of Bom. VI of 1933.

11. In section 45 of the said Act, in sub-section (*1*),— Amendment of section 45 of Bom. VI of 1933.

(*1*) clause (*bb*) shall be deleted;

(*2*) clause (*bc*) shall be relettered as clause (*bb*);

(*3*) in clause (*bb*) so relettered, the word "and" at the end shall be deleted;

(*4*) for clause (*c*), the following clauses shall be substituted, namely:—

"(*c*) Under sub-section (*1*) of section 28C of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section.

(*d*) Under sub-section (*3*) of section 28C of this Act—

Fine not exceeding Rs. 40 or Rs. 2 per day for a continuing contravention as provided in that sub-section.

(*e*) Under sub-section (*3*) of section 109 of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section."

Amendment of section 89 of Bom. VI of 1933.

12. In section 89 of the said Act, —

(*1*) in sub-section (*2*), after clause (*vib*), the following clauses shall be inserted, namely:—

(*vic*) a fee on markets and weekly bazaars;

(*vid*) a fee on cart-stands;"

(*2*) in sub-section (*2A*), after the word "taxes" the words "or fees" shall be inserted.

Amendment of section 91 of Bom. VI of 1933.

13. In section 91 of the said Act,—

(*1*) in sub-sections (*2*) and (*5*) after the word "tax" the words "or fee" shall be inserted;

(*2*) in sub-section (*6*), after the word "tax," the word "fee," shall be inserted.

Amendment of section 92 of Bom. VI of 1933.

14. In section 92 of the said Act, in clause (*b*), after the word "tax" the words "or fee" shall be inserted.

Amendment of section 108 of Bom. VI of 1933.

15. In section 108 of the said Act, in clause (*m1*) of sub-section (*1*), after the word "taxes" the words "or fees" shall be inserted.

Amendment of section 109 of Bom. VI of 1933.

16. In section 109 of the said Act, in clause (*a*) of sub-section (*3*), for the figures "10" the figures "20" shall be substituted.

Amendment of section 112 of Bom. VI of 1933.

17. In section 112 of the said Act, in sub-section (*5*), for the words "an Assistant or Deputy Collector" the words "a Mamlatdar or Mahalkari" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The objects and reasons of the proposed amendments of the Bombay Village Panchayats Act, 1933, are explained below :—

Clauses 2, 12, 13, 14 and 15.—Sub-section (2) of section 89 of the Bombay Village Panchayats Act, 1933, provides that the village panchayats can levy taxes or fees enumerated in the clauses under that sub-section. A fee on markets and weekly bazaars is being levied by many village panchayats on the strength of the residuary clause (*vii*) which allows the village panchayats to levy only taxes which the State Government has power to levy. A doubt having arisen whether a fee can be regarded as a tax, clause (*vic*) is being inserted to provide specifically for the levy of fees on markets and weekly bazaars by village panchayats. It is also proposed to empower village panchayats to levy a fee on carts-stands for which clause (*vid*) is being inserted.

Clauses 3 and 5.—The period of 4 weeks within which the Standing Committee of a District Local Board, in cases of failure to elect, is required to make appointments of members on village panchayats under sections 6 (*3*) and 23 (*1*) is considered too short. This is, therefore, being increased to 8 weeks.

Clause 4.—Under section 9 of the Act, when an irregularity has been committed at an election such as any mistake in counting of votes, it is competent for the Collector to scrutinize and compute votes recorded in favour of each candidate and declare as invalid the election of any candidate, if on such scrutiny and computation, he is found not to have obtained the highest number of votes ; but it is not competent for him to declare as elected any of the other candidates who, as a result of such scrutiny and computation, is found to have obtained the highest number of votes. It is proposed to give such power to the Collector.

Clauses 6 and 8.—Under section 54(*1*) (*f*) of the Bombay District Municipal Act, 1901 and section 68 (*1*) (*f*) of the Bombay Municipal Boroughs Act, 1925, it is the obligatory duty of every municipality to make reasonable provision for removing obstructions and projections in public streets or places and in spaces not being private property, which are open to the enjoyment of the public. Municipalities have also powers to effect the removal of such obstructions or encroachments. It is proposed to make similar provision in the Bombay Village Panchayats Act, 1933, to enable the village panchayats to remove obstructions and encroachments on public property.

Clause 7.—At present, village panchayats, unlike the municipalities, have no power to incur expenditure on any public reception, ceremony, entertainment or exhibition within the village. It is proposed to give this power to village panchayats.

Clauses 9 and 11.—Under the Bombay Primary Education Act, 1947, nyaya panchayats constituted under the Bombay Village Panchayats Act, 1933, have already been empowered to try offences under section 35 of the Bombay Primary Education Act, 1947. In view of this, the first entry in clause (*f*) of section 41 and clause (*bb*) of sub-section (*1*) of section 45 have become redundant and are proposed to be deleted. Other amendments are minor amendments as a consequence of amendments in other sections.

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Clause 16—.The maximum limit of fine mentioned in section 109(*3*) (*a*) of the Bombay Village Panchayats Act, 1933, is proposed to be raised from Rs. 10 to Rs. 20 in order to make it consistent with the maximum limit prescribed by section 45 (*1*)(*c*).

Clause 17.—Under the existing provisions of section 112(*5*) the Collector cannot delegate his powers under the Act to the Mamlatdar or Mahalkari. The proposed amendment will enable him to delegate powers to the Mamlatdar or Mahalkari.

Dated the 6th September 1950. G. D. VARTAK.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXXVIII OF 1950.]

(As read for the third time and passed by the Legislative Assembly on the 27th September 1950.)

A Bill to amend the Bombay Village Panchayats Act, 1933.

[Shri G. D. VARTAK, M.L.A.]

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BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS

L. A. BILL No. XXXVIII OF 1950.

A Bill to amend the Bombay Village Panchayats Act, 1933.

(As read for the third time and passed by the Legislative Assembly on the 27th September 1950.)

(As read for the third time and passed by the Legislative Council on the 10th October 1950).

Bom. VI of 1933.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1950.

Bom. VI of 1933.

Amendment of section 3 of Bom. VI of 1933.

2. In section 3 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), in clause (14), the following shall be added at the end, namely :—

"but does not include a fee"

Amendment of section 6 of Bom. VI of 1933.

3. In section 6 of the said Act, in sub-section (*3*), for the word "four" the word "eight" shall be substituted.

Amendment of section 9 of Bom. VI of 1933.

4. In section 9 of the said Act,—

(*1*) in sub-section (*1*), after the word "may" the words, brackets, figure and letter ", subject to the provisions of sub-section (*1A*)," shall be inserted;

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(*2*) after sub-section (*1*), the following sub-section shall be inserted, namely :—

" (*1A*) If in any case to which the proviso to sub-section (*1*) does not apply, the validity of an election is in dispute between two or more candidates, the Collector shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Collector finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it :

Provided further that after such computation if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate or candidates, as the case may be, selected by lot drawn in the presence of the Collector in such manner as he may determine." ;

(*3*) for the marginal note to the said section, the following shall be substituted, namely :—

" Determination of validity of elections by Collector. "

Amendment of section 23 of Bom. VI of 1933.

5. In section 23 of the said Act, in the first proviso to sub-section (*1*), for the word " four ", where it occurs for the second time, the word " eight " shall be substituted.

Amendment of section 26 of Bom. VI of 1933.

6. In section 26 of the said Act, in sub-section (*1*), after clause (*b*), the following clause shall be inserted, namely :—

" (*ba*) the removing of obstructions and projections in public streets or places and in sites not being private property, which are open to the enjoyment of the public, whether such sites are vested in the panchayat or belong to Government ; "

Amendment of section 26A of Bom. VI of 1933.

7. In section 26A of the said Act, after sub-section (*2*), the following sub-section shall be added, namely :—

" (*3*) A panchayat may by a resolution passed at its meeting and supported by two-thirds of the whole number of its members make provision for any public reception, ceremony, entertainment or exhibition within the village :

Provided that the panchayat shall not incur expenditure exceeding Rs. 25 on any such public reception, ceremony, entertainment or exhibition, except with the previous sanction of the Collector. "

Insertion of new section 28C in Bom. VI of 1933.

8. After section 28B of the said Act, the following new section shall be inserted, namely :—

Obstructions and encroachments upon public streets and open sites.

" 28C. (*1*) Whoever within the limits of the village,

(*a*) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(*b*) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public street or place or in or over or upon any open drain, gutter, sewer or aqueduct in such street or place shall, on conviction, be punished with fine which may extend to twenty rupees and with further fine which may extend to one rupee for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(*2*) The panchayat shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not, provided that if the site be vested in Government the permission of the Collector or any officer authorised by him in this behalf shall have first been obtained, the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(*3*) Whoever, not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open site which is not private property shall, on conviction, be punished with fine which may extend to forty rupees, and, in the case of an encroachment, with further fine which may extend to two rupees for every day on which the encroachment continues after the date of first conviction.

(*4*) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of or erection in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and sites for not more than four days, and in such manner as not to inconvenience the public or any individual."

9. In section 41 of the said Act,— Amendment of section 41 of Bom. VI of 1933.

(*1*) in clause (*f*), the entry "Failure to cause child to attend school.....35" shall be deleted;

(*2*) for clause (*h*) the following shall be substituted, namely :—

"(*h*) Under this Act,—

(*i*) Obstructions and encroachments upon public streets and open sites.....28C(1) and (3).

(*ii*) Contravention of a by-law.....109".

10. In section 43 of the said Act, for the words "for a breach of a by-law" the words, brackets, figures and letter "punishable under sub-section (*1*) or (*3*) of section 28C or of contravention of a by-law under sub-section (*3*) of section 109" shall be substituted. Amendment of section 43 of Bom. VI of 1933.

11. In section 45 of the said Act, in sub-section (*1*),— Amendment of section 45 of Bom. VI of 1933.

(*1*) clause (*bb*) shall be deleted;

(*2*) clause (*bc*) shall be relettered as clause (*bb*);

(*3*) in clause (*bb*) so relettered, the word "and" at the end shall be deleted ;

(*4*) for clause (*c*), the following clauses shall be substituted, namely :—

"(*c*) Under sub-section (*1*) of section 28C of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section.

(*d*) Under sub-section (*3*) of section 28C of this Act—

Fine not exceeding Rs. 40 or Rs. 2 per day for a continuing contravention as provided in that sub-section.

(*e*) Under sub-section (*3*) of section 109 of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section."

Amendment of section 89 of Bom. VI of 1933.

12. In section 89 of the said Act, —

(*1*) in sub-section (*2*), after clause (*vib*), the following clauses shall be inserted, namely :—

"(*vic*) a fee on markets and weekly bazaars ;

(*vid*) a fee on cart-stands ;"

(*2*) in sub-section (*2A*), after the word "taxes" the words "or fees" shall be inserted.

Amendment of section 91 of Bom. VI of 1933.

13. In section 91 of the said Act,—

(*1*) in sub-sections (*2*) and (*5*) after the word "tax" the words "or fee" shall be inserted ;

(*2*) in sub-section (*6*), after the word "tax," the word "fee," shall be inserted.

Amendment of section 92 of Bom. VI of 1933.

14. In section 92 of the said Act, in clause (*b*), after the word "tax" the words "or fee" shall be inserted.

Amendment of section 108 of Bom. VI of 1933.

15. In section 108 of the said Act, in clause (*m1*) of sub-section (*1*), after the word "taxes" the words "or fees" shall be inserted.

Amendment of section 109 of Bom. VI of 1933.

16. In section 109 of the said Act, in clause (*a*) of sub-section (*3*), for the figures "10" the figures "20" shall be substituted.

Amendment of section 112 of Bom. VI of 1933.

17. In section 112 of the said Act, in sub-section (*5*), for the words "an Assistant or Deputy Collector" the words "a Mamlatdar or Mahalkari" shall be substituted.

Government of Bombay

LEGAL DEPARTMENT

[L. A. Bill No. XXXVIII OF 1950.]

(As read for the third time and passed by the Legislative Assembly on the 27th September 1950.)

(As read for the third time and passed by the Legislative Council on the 10th October 1950.)

A Bill to amend the Bombay Village Panchayats Act, 1933.

[Shri G. D. VARTAK, M.L.A.]

MO-IV Bk Hb 288—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

The following Act of the Bombay Legislature having been assented to by the Governor on the 26th October 1950 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXXI OF 1950.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 3rd November 1950.)

An Act to amend the Bombay Village Panchayats Act, 1933.

Bom. of 33.

WHEREAS it is expedient to amend the Bombay Village Panchayats Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Village Panchayats (Amendment) Act, 1950.

Bom. VI of 1933.

Amendment of section 3 of Bom. VI of 1933.

2. In section 3 of the Bombay Village Panchayats Act, 1933 (hereinafter referred to as the said Act), in clause (14), the following shall be added at the end, namely :—

"but does not include a fee"

Amendment of section 6 of Bom. VI of 1933.

3. In section 6 of the said Act, in sub-section (*3*), for the word "four" the word "eight" shall be substituted.

Amendment of section 9 of Bom. VI of 1933.

4. In section 9 of the said Act,—

(*1*) in sub-section (*1*), after the word "may" the words, brackets, figure and letter ", subject to the provisions of sub-section (*1A*)," shall be inserted;

(2) after sub-section (1), the following sub-section shall be inserted, namely :—

" (1A) If in any case to which the proviso to sub-section (1) does not apply, the validity of an election is in dispute between two or more candidates, the Collector shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Collector finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it :

Provided further that after such computation if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate or candidates, as the case may be, selected by lot drawn in the presence of the Collector in such manner as he may determine.";

(3) for the marginal note to the said section, the following shall be substituted, namely :—

" Determination of validity of elections by Collector. "

Amendment of section 23 of Bom. VI of 1933.

5. In section 23 of the said Act, in the first proviso to sub-section (1), for the word " four ", where it occurs for the second time, the word " eight " shall be substituted.

Amendment of section 26 of Bom. VI of 1933.

6. In section 26 of the said Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely :—

" (ba) the removing of obstructions and projections in public streets or places and in sites not being private property, which are open to the enjoyment of the public, whether such sites are vested in the panchayat or belong to Government ; "

Amendment of section 26A of Bom. VI of 1933.

7. In section 26A of the said Act, after sub-section (2), the following sub-section shall be added, namely :—

" (3) A panchayat may by a resolution passed at its meeting and supported by two-thirds of the whole number of its members make provision for any public reception, ceremony, entertainment or exhibition within the village :

Provided that the panchayat shall not incur expenditure exceeding Rs. 25 on any such public reception, ceremony, entertainment or exhibition, except with the previous sanction of the Collector. "

Insertion of new section 28C in Bom. VI of 1933.

8. After section 28B of the said Act, the following new section shall be inserted, namely :—

Obstructions and encroachments upon public streets and open sites.

" 28C. (1) Whoever within the limits of the village,

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(*a*) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(*b*) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public street or place or in or over or upon any open drain, gutter, sewer or aqueduct in such street or place shall, on conviction, be punished with fine which may extend to twenty rupees and with further fine which may extend to one rupee for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(*2*) The panchayat shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not, provided that if the site be vested in Government the permission of the Collector or any officer authorised by him in this behalf shall have first been obtained, the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(*3*) Whoever, not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open site which is not private property shall, on conviction, be punished with fine which may extend to forty rupees, and, in the case of an encroachment, with further fine which may extend to two rupees for every day on which the encroachment continues after the date of first conviction.

(*4*) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of or erection in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and sites for not more than four days, and in such manner as not to inconvenience the public or any individual."

Amendment of section 41 of Bom. VI of 1933.

9. In section 41 of the said Act,—

(*1*) in clause (*f*), the entry "Failure to cause child to attend school.....35" shall be deleted;

(*2*) for clause (*h*) the following shall be substituted, namely :—

"(*h*) Under this Act,—

(*i*) Obstructions and encroachments upon public streets and open sites.....28C(1) and (3).

(*ii*) Contravention of a by-law.....109".

Amendment of section 43 of Bom. VI of 1933.

10. In section 43 of the said Act, for the words "for a breach of a by-law" the words, brackets, figures and letter "punishable under sub-section (*1*) or (*3*) of section 28C or of contravention of a by-law under sub-section (*3*) of section 109" shall be substituted.

Amendment of section 45 of Bom. VI of 1933.

11. In section 45 of the said Act, in sub-section (*1*),—

(*1*) clause (*bb*) shall be deleted;

(*2*) clause (*bc*) shall be relettered as clause (*bb*);

(*3*) in clause (*bb*) so relettered, the word "and" at the end shall be deleted;

(*4*) for clause (*c*), the following clauses shall be substituted, namely:—

"(*c*) Under sub-section (*1*) of section 28C of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section.

(*d*) Under sub-section (*3*) of section 28C of this Act—

Fine not exceeding Rs. 40 or Rs. 2 per day for a continuing contravention as provided in that sub-section.

(*e*) Under sub-section (*3*) of section 109 of this Act—

Fine not exceeding Rs. 20 or Re. 1 per day for a continuing contravention as provided in that sub-section."

Amendment of section 89 of Bom. VI of 1933.

12. In section 89 of the said Act, —

(*1*) in sub-section (*2*), after clause (*vib*), the following clauses shall be inserted, namely:—

"(*vic*) a fee on markets and weekly bazaars;

(*vid*) a fee on cart-stands;"

(*2*) in sub-section (*2A*), after the word "taxes" the words "or fees" shall be inserted.

Amendment of section 91 of Bom. VI of 1933.

13. In section 91 of the said Act,—

(*1*) in sub-sections (*2*) and (*5*) after the word "tax" the words "or fee" shall be inserted;

(*2*) in sub-section (*6*), after the word "tax," the word "fee," shall be inserted.

Amendment of section 92 of Bom. VI of 1933.

14. In section 92 of the said Act, in clause (*b*), after the word "tax" the words "or fee" shall be inserted.

Amendment of section 108 of Bom. VI of 1933.

15. In section 108 of the said Act, in clause (*m1*) of sub-section (*1*), after the word "taxes" the words "or fees" shall be inserted.

Amendment of section 109 of Bom. VI of 1933.

16. In section 109 of the said Act, in clause (*a*) of sub-section (*3*), for the figures "10" the figures "20" shall be substituted.

Amendment of section 112 of Bom. VI of 1933.

17. In section 112 of the said Act, in sub-section (*5*), for the words "an Assistant or Deputy Collector" the words "a Mamlatdar or Mahalkari" shall be substituted.

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